Senate Study Bill 1238 - Introduced

SEN	ATE FILE
вч	(PROPOSED COMMITTEE
	ON JUDICIARY BILL BY
	CHAIRPERSON ZAUN)

A BILL FOR

- 1 An Act relating to tort liability, including employer liability
- 2 in civil actions involving commercial motor vehicles and
- 3 arising from an employee's negligence, punitive or exemplary
- 4 damages, and noneconomic damages available against owners or
- 5 operators of commercial motor vehicles.
- 6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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- 1 Section 1. <u>NEW SECTION</u>. 668.12A Liability for employee
- 2 negligence in actions involving commercial motor vehicles.
- 3 l. In a civil action involving a commercial motor vehicle
- 4 as defined in section 321.1, if an employer who is a defendant
- 5 in the action complies with subsection 2, the employer's
- 6 liability for damages caused by the negligence of an employee
- 7 acting within the course and scope of employment shall be based
- 8 solely on respondeat superior and not on the employer's direct
- 9 negligence in hiring, training, supervising, or trusting the
- 10 employee, or other similar claim that the employer's negligence
- 11 enabled the employee's harmful conduct.
- 12 2. On motion of an employer who is the defendant in
- 13 a civil action involving a commercial motor vehicle, and
- 14 notwithstanding section 671A.2, a trial court shall dismiss
- 15 from the civil action any claim of the employer's direct
- 16 negligence in hiring, training, supervising, or trusting an
- 17 employee, or other claim of direct negligence on the part of
- 18 the employer for the employee's harmful conduct, or other
- 19 similar claims, if the employer stipulates that at the time
- 20 of the event that caused the damages that are the subject of
- 21 the action that the person whose negligence is alleged to have
- 22 caused the damages was the employer's employee and was acting
- 23 within the course and scope of employment with the employer.
- 3. If an employer makes the stipulations in subsection 2
- 25 with respect to an employee, and the employee's negligence is
- 26 found to have caused or contributed to causing the damages, the
- 27 employer shall be adjudged vicariously liable for the resulting
- 28 damages.
- 29 Sec. 2. NEW SECTION. 668.15A Noneconomic damages —
- 30 commercial motor vehicle owners or operators.
- 31 l. As used in this section:
- 32 a. "Noneconomic damages" means damages arising from
- 33 pain, suffering, inconvenience, physical impairment, mental
- 34 anguish, emotional pain and suffering, loss of chance, loss of
- 35 consortium, or any other nonpecuniary damages.

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- b. "Occurrence" means the event, incident, or happening,
 and the acts or omissions incident thereto, which proximately
- 3 caused injuries or damages for which recovery is claimed.
- 4 2. The total amount recoverable in any civil action for
- 5 noneconomic damages for personal injury or death, whether in
- 6 tort, contract, or otherwise, against the owner or operator
- 7 of a commercial motor vehicle shall be limited to one million
- 8 dollars, regardless of the number of derivative claims,
- 9 theories of liability, or defendants in the civil action.
- 10 Sec. 3. Section 668A.1, Code 2021, is amended by adding the 11 following new subsection:
- 12 NEW SUBSECTION. 2A. A claim for punitive or exemplary
- 13 damages shall not be included in any initial claim for relief.
- 14 A claim for punitive or exemplary damages may be allowed by
- 15 amendment to the pleadings only after the exchange of initial
- 16 disclosures pursuant to rule 1.500(1) of the Iowa rules of
- 17 civil procedure and after the plaintiff establishes prima facie
- 18 proof of a triable issue. After the plaintiff establishes the
- 19 existence of a triable issue, the court may, in its discretion
- 20 and subject to subsection 3, allow discovery on the issue of
- 21 punitive or exemplary damages as the court deems appropriate.
- 22 EXPLANATION
- The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.
- 25 This bill relates to tort liability, including employer
- 26 liability for an employee's tort involving a commercial motor
- 27 vehicle, noneconomic damages available against an owner or
- 28 operator of a commercial motor vehicle, and pleading and
- 29 discovery requirements related to punitive damages.
- 30 The bill provides that an employer's liability who is a
- 31 defendant in a civil action involving a commercial motor
- 32 vehicle for damages caused by negligence of an employee acting
- 33 within the scope and course of employment shall be based
- 34 on respondeat superior. Upon motion of an employer, and
- 35 notwithstanding Code section 671A.2 (limitations on liability

1 protection for negligent hiring), a trial court shall dismiss 2 from the action any claim of the employer's direct negligence 3 in hiring, training, supervising, or trusting an employee, or 4 other claim of direct negligence on the part of the employer 5 for the employee's harmful conduct, or other similar claims, 6 if the employer stipulates that at the time of the event that 7 caused the damages that the person whose negligence is the 8 basis of the action is the employer's employee and the employee 9 was acting within the course and scope of employment with the 10 employer. If an employer makes the stipulation with respect 11 to an employee, and the employee's negligence is found to have 12 caused or contributed to causing the damages, the employer 13 shall be adjudged vicariously liable for the resulting damages. 14 Under current law, an employer is liable for an employee's 15 negligence and may be held responsible for direct negligence 16 relating to hiring, training, supervising, trusting an 17 employee, or other claims of direct negligence on part of the 18 employee's harmful conduct, subject to certain limitations 19 contained in Code chapter 671 (negligent hiring — limitations 20 on liability). 21 The bill limits the amount of noneconomic damages available 22 against the owner or operator of a commercial motor vehicle. 23 The bill defines "noneconomic damages" to mean damages arising 24 from pain, suffering, inconvenience, physical impairment, 25 mental anguish, emotional pain and suffering, loss of chance, 26 loss of consortium, or any other nonpecuniary damages and 27 "occurrence" to mean the event, incident, or happening, and 28 the acts or omissions incident thereto, which proximately 29 caused injuries or damages for which recovery is claimed. 30 bill provides that the total amount recoverable in any civil 31 action for noneconomic damages for personal injury or death 32 against the owner or operator of a commercial motor vehicle 33 shall be limited to \$1 million for any occurrence regardless 34 of the number of derivative claims, theories of liability, or 35 defendants in the civil action. Under current law, noneconomic

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- 1 damages are unlimited except for suits under Code sections
- 2 123.92 (dramshop liability) and 147.136A (medical malpractice).
- 3 The bill provides that a claim for punitive or exemplary
- 4 damages in an action governed by Code section 668A.1 shall
- 5 not be included in any initial claim for relief. A claim for
- 6 punitive or exemplary damages may be allowed by amendment to
- 7 the pleadings only after the exchange of initial disclosures
- 8 and after the plaintiff establishes prima facie proof of a
- 9 triable issue. After the plaintiff establishes the existence
- 10 of a triable issue of punitive or exemplary damages, the court
- 11 may allow additional discovery on the issue of punitive or
- 12 exemplary damages. Under current law and under the bill, the
- 13 mere allegation or assertion of a claim for punitive damages
- 14 cannot form the basis for discovery of the wealth or ability to
- 15 respond in damages on behalf of the party from whom punitive
- 16 damages are claimed until the claimant has established that
- 17 sufficient admissable evidence exists to support a prima facie
- 18 case establishing, by a preponderance of clear, convincing, and
- 19 satisfactory evidence, that the conduct of the defendant from
- 20 which the claim arose constituted willful and wanton disregard
- 21 for the rights or safety of another.